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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,780	08/15/2003	Jesse J. Williams	71189-1501	1779

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/604,780	Applicant(s) WILLIAMS ET AL.	
	Examiner Lorna M. Douyon	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-93 is/are pending in the application.
- 4a) Of the above claim(s) 1-48 and 67-93 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2 pages</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election with traverse of Group II, claims 49-66 in the reply filed on November 7, 2005 is acknowledged. The traversal is on the ground(s) that the Examiner has failed to identify any reasons (as distinguished from mere statements of conclusions) as to why the inventions as claimed are either independent or distinct. This is not found persuasive because as already stated in the restriction requirement, Groups I or II (which are product claims) and III (method claims) inventions are distinct because the process for using the product as claimed can be practiced with another materially different product such as a carbonated cleaning solution. With respect to Group I and Group II, the claims of Group I require another separate chamber comprising a fabric/carpet cleaning composition which is not required in Group II. The claims of Group II can be used independently and can be used other than removing dirt or stains from fabrics and carpets, for example, self-heating shaving cream. The claims of Group IV, are separate and distinct from the claims of either of Group I or II because the present claims do not require the particulars of either Group I or II. The aerosol package of Group IV is a totally different product and may contain acid in the first container and a base in the second container. Each Group has a different classification, hence, have acquired a separate status in the art, and the search for one is not required for the other. Therefore there is great burden on the Examiner to examine the other 3 inventions.

The requirement is still deemed proper and is therefore made FINAL.

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Claim Objections

2. Claim 51 is objected to because of the following informalities: in line 1, “stains” after “removing dirt and” was inadvertently omitted. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 49-52 and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenkare et al. (US Patent No. 3,722,752), hereinafter “Kenkare”.

Kenkare teaches a packaged self-heating cosmetic, such as a shaving cream which includes separate reductant and an oxidant, wherein the oxidant is aqueous hydrogen peroxide (see abstract). The package is a plural compartment dispenser which includes a main compartment which contains liquefied gas (propellant) and other ingredients, plus a smaller compartment which is collapsible under pressure of the liquefied gas, as the contents are dispensed, wherein a valve communicates with the contents of the compartments by means of dip tubes and such valve or plural valves are actuatable by movement of a spout or other dispensing member (see col. 3, lines 3-28, see also col. 9, lines 8-42). Present with the aqueous hydrogen peroxide solution may be minor proportions of sequestrants, chelating agents and other stabilizers, such as nitrilotriacetic acid or its trisodium salt (see col. 6, lines 50-57). Anti-soil or anti-stain protectants need not be present as they are only optional ingredients. The oxidants and

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reductants are low in corrosivity toward ordinary materials of container construction, such as tinplate or steel coated with resins commonly used for that purpose (see col. 12, lines 52-55).

Kenkare teaches the limitations of the instant claims. Hence, Kenkare anticipates the claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 53-54 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenkare as applied to the above claims, and further in view of Lauwers et al. (US Patent No. 6,021,926), hereinafter "Lauwers".

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Kenkare teaches the features as described above. Kenkare, however, fails to specifically disclose an aluminum chamber or the specific coating of the steel as those recited.

Lauwers, an analogous art, teaches an aerosol package wherein the container is made from any material, preferably aluminium, tin-steel plate or other metals, and preferably the interior surface of the metal container is laminated with a plastic material or coated with a lacquer or with a varnish, for example, epoxy phenolic, polyamide-imide, organosol, polyethylene terephthalate (PET), PP, or polyethylene (PE) or a combination thereof (see col. 3, lines 26-43). Lauwers also teaches that the opening of the package is closed by a valve (see col. 3, lines 51-52) and nozzles are attached to the valve having three orifices with a diameter of about 1.3 mm (0.050 inch) (see col. 5, lines 1-22) which reads on the 0.024 inch orifice of the instant claims because the term “about” permits some tolerance, see *In re Ayers*, 69 USPQ 109, and *In re Erickson*, 145 USPQ 207. The nozzle is made of thermoplastic material, for example, polymers and co-polymers derived from olefins (see col. 5, lines 58-61)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the tin or steel container of Kenkare with aluminum, which is also construed to read on drawn aluminum, because the substitution of art recognized equivalents as shown by Lauwers is within the level of ordinary skill in the art, and to provide a coating of epoxy phenolic, polyamide-imide or organosol onto the tinplate or steel container of Kenkare because Kenkare specifically desires the tinplate or steel to be coated with resins commonly used for that purpose as disclosed in col. 12, lines 52-55, and Lauwers teaches such coatings.

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8. Claims 55-56, 62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenkare in view of Lauwers as applied to the above claims, and further in view of Hart et al. (US Patent No. 3,970,584), hereinafter "Hart".

Kenkare in view of Lauwers teaches the features as described above. However, the combination of reference fails to specifically disclose the dip tube being made of a thermoplastic material such as an olefin polymer.

Hart teaches a similar package wherein the dip tube is made from polyethylene (see col. 5, line 38).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a dip tube made from polyethylene because it is shown from Hart that dip tubes of said material is common in a similar package.

9. Claims 58-59, 65-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenkare in view of Lauwers as applied to the above claims, and further in view of Schmitt (US Patent No. 3,866,800).

Kenkare in view of Lauwers teaches the features as described above. However, the combination of reference fails to specifically disclose the valve containing a spring that is made from stainless steel.

Schmitt teaches a similar package wherein the valve containing a spring is made of steel (see col. 9, lines 57-62), which is construed to be a stainless steel.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a spring made of stainless steel in the container of Kenkare in view of

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Lauwers because not only is a stainless steel spring in the valve a common material used in similar package as shown by Schmitt, but also said material is resistant to corrosion.

10. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kenkare in view of Lauwers as applied to the above claims, and further in view of Miles (US Patent 3,722,753).

Kenkare in view of Lauwers teaches the features as described above. However, the combination of reference fails to specifically disclose the valve made of nylon.

Miles teaches a similar package wherein the valve is made of nylon (see col. 3, lines 65-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a valve made of nylon in the container of Kenkare in view of Lauwers because it is shown by Miles that said material is useful as a valve in a similar package.

Conclusion

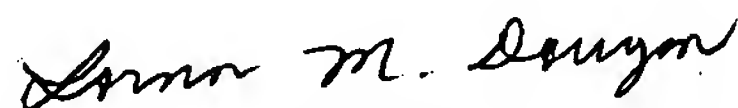
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lorna M. Douyon
Primary Examiner
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